

**ARKANSAS PROFESSIONAL BAIL BOND COMPANY AND PROFESSIONAL
BAIL BONDSMAN LICENSING BOARD
February 11, 2005**

Chairman Don Smith called the meeting to order at 9:00 a.m.

Roll call was taken. The following members were present: Rex Morris, Frank Sturgeon, Phyllis Carruth, Don Smith, Eugene Reynolds and Marc Oudin. Also present were Assistant Attorney General, Chilesa Ready, Executive Director, Tommy Reed, Board staff and members of the audience.

Following a review of the Board Minutes for January 14, 2005, Mr. Oudin moved to approve the minutes as presented. Mr. Sturgeon seconded. The motion carried on voice vote with none opposed.

OLD BUSINESS

License Approvals:

Three (3) non-controversial license applications and seven (7) non-controversial tentative license applications were submitted for Board approval. One (1) non-controversial company application was presented. Mr. Reed advised that a vote on the application of the agent to be licensed under that company license should be withheld until the company application was considered. Mr. Oudin moved to approve the license applications as presented, pending receipt of necessary documentation. Mr. Sturgeon seconded. Chairman Smith asked for comments or discussion. Hearing none, the motion was put to a voice vote. The motion carried with none opposed.

Transfers/Suspensions/Reinstatements:

There were no transfer requests submitted. The Board was provided a list of six (6) agent terminations and advised that Reeves Bail Bonding and its agents had been suspended for failure to pay forfeitures. Chairman Smith invited comments or discussion. There was none and the Board proceeded.

Forfeitures - Open:

The Open Forfeiture Report was presented and the Board's approval to suspend those licensees who failed to pay forfeitures timely between February 11, 2005 and March 11, 2005 was requested. The Chair called for motions. Ms. Carruth moved to suspend those licensees whose forfeitures were not timely paid between February 11, 2005 and March 11, 2005. Mr. Sturgeon seconded. The motion was put to a voice vote. The motion carried with none opposed.

Past Due Forfeitures:

The Past Due Forfeiture Report was presented for the Board's review. Chairman Smith asked for comments or discussion. There were no comments or discussion and the Board moved to the next item of business.

2005 Legislative Session - Update

Mr. Reed advised the Board that the appropriation bill for the Board for the 2005-2007 Biennium, HB1038, had been passed by both the House and Senate; HB1023, re: civil process servers acting as bondsman had been pulled down, as was HB1335 re: de novo review of administrative adjudication; and noted the filing of HB 1397 & 1398 re: criminal history background checks by third party vendors.

He advised the Board he had first contacted Rep. Chris Thyer to request he sponsor the amendment to the statute regarding agent transfers. Rep. Thyer expressed he could support the proposal but that he could not sponsor the bill due to other legislative initiatives on which he was working. Mr. Reed then approached Rep. David Johnson who had advised he could support the measure but could not sponsor it due to other legislation he was handling. Rep. Johnson referred him to Rep. Robbie Wills but he had not yet spoken to Rep. Wills.

Mr. Reed made the Board aware of conversations he had had with Didi Sallings, Executive Director of the Public Defender Commission concerning her intention to have legislation introduced to increase the fee currently collected for the Public Defender Commission from \$10 to \$20.

In the Matter of: Jamie Mann/Ron Marshall & Affordable Bail Bonds:

The Board was reminded that the question of whether a consent decree entered in APBBLB #97-044 in February of 2004 also applied to APBBLB #00-015 had been brought before the Board in December 2004 after the Court of Appeals had affirmed the Pulaski Circuit Court's decision affirming the Board's finding in APBBLB #00-015 but modifying the revocation of Mr. Mann's license to a one-year suspension. The matter had not been definitively settled at the December meeting and the Board had revisited the issue at the January meeting when it concluded that the consent decree did not apply to APBBLB #00-015 and instructed the Executive Director to implement the one-year suspension.

Mr. Reed advised the Board he had contacted Mr. Mann by phone to advise him of the Board's decision whereupon Mr. Mann indicated he felt he should have been given notice of the matter being placed on the agenda and an opportunity to appear before the Board for the purpose of presenting his argument. Mr. Reed advised that, although he felt Mr. Mann had adequate notice that the Board would consider the question in December and again in January, he had placed the matter on the February agenda for the limited purpose of allowing Mr. Mann an opportunity to present his request that the Board consider a monetary fine in lieu of suspension of his license.

The Board then heard from Mr. Mann and his attorney, Norman Wilber, who gave a brief recitation of the allegations against his client in APBBLB #00-015. He presented the Board with affidavits from Dan Brown and Brad Parnell, the complaining parties, expressing their opinion that the Board's sanctions were overly harsh; that it was never their intention that Mr. Mann lose his license; and requesting the Board consider substituting a \$500 fine in place of the one-year suspension. The Board was provided with a proposed consent agreement drafted by Mr. Wilber.

Ms. Carruth stated she was on the Board when these matters had been heard and she felt the sanctions were appropriate; that the Board was justified in entering the revocation; and she felt a one-year suspension was just. Mr. Oudin stated that, although he was not on the Board during these hearings, he felt the Board had perhaps been overly harsh based on Mr. Mann's ill-advised critique and grading of the complaint based on grammatical errors, etc.

Mr. Wilber noted the complaining parties and Mr. Marshall and Mr. Mann had come to an agreed accommodation and that the "bond wars" between them had been concluded. It was noted that there had been no complaints or other disciplinary actions against Mr. Mann since these actions had been heard. Mr. Parnell stated he had no problem with the Board reducing the sanction and that his intention in bringing the complaint had been to determine whether Mr. Mann's actions were proper since there was no specific regulation addressing the matter..

Mr. Sturgeon noted he had participated in the hearing on APBBLB #00-015 and felt the Board should stand by its original sanctions. Mr. Morris expressed his agreement. Mr. Wilber then clarified Mr. Mann was not asking the Board to rescind its decision finding a violation, rather he was asking that the Board substitute a lesser penalty.

Mr. Oudin moved to accept a fine of \$2,500 in place of the one-year suspension. Mr. Reynolds seconded. The matter was put to a roll-call vote as follows: Mr. Morris – No; Mr. Sturgeon – No; Ms. Carruth – No; Mr. Reynolds – Yes; Mr. Oudin – Yes; Mr. Smith – Yes. With 3 in favor and 3 opposed, the motion failed.

Mr. Oudin then moved to accept a fine of \$3,500 in place of the one-year suspension. The matter was put to a roll-call vote as follows: Mr. Morris – Yes; Mr. Sturgeon – No; Ms. Carruth – No; Mr. Reynolds – Yes; Mr. Oudin – Yes; Mr. Smith – Yes. The motion carried with 4 in favor and 2 opposed.

Mr. Wilber was instructed to prepare the order. He stated he would have the order prepared the following Monday, forward it for signatures and stated that normally the party would be given 30 days after signing of the order to gather the money and pay it to the Board. The Board agreed Mr. Mann would have thirty days after entry of the order to pay the fine.

Reeves Bonding Company, Inc.:

The Board was advised that a notice advising the company of the Board's intention to attach the security deposit based on unpaid forfeiture judgments and the consequences of failing to file additional security within 90 days of the date of suspension of the license had been sent and received by the company on January 25, 2005. Mr. Reed advised he had attempted to contact the company but had been unsuccessful.

Mr. Reed advised that he had contacted the two financial institutions concerning the certificates of deposit. However, the assignments on the certificates are to the Insurance Commissioner rather than the Board; therefore, Mr. Reed is working with the Insurance Commissioner to have the proper assignments made to the Board. Upon receipt of the proper assignments, the funds will be attached for the purpose of paying judgments presented to the Board.

Recap of forfeitures paid from security deposits:

The Board was provided with a recap of forfeitures paid from security deposits to-date. Bud Dennis Bail Bond had a balance of \$1,367.81 left from the \$100,000 deposit; Jack's Bail Bond had a balance of \$31,535 left from the \$100,000 deposit; and, Will Oliver/Liz Frawley Bail Bonds, Inc. had a balance of \$27,497.60 left from the \$100,000 deposit.

NEW BUSINESS

January Vouchers Paid:

Chairman Smith invited questions and/or discussion regarding the vouchers paid in January. There being none, the Board proceeded.

Quarterly Reports – Oct-Dec 2004,

The Board was provided a copy of the Quarterly Reports filed for the period October to December, 2004. Chairman Smith invited questions and/or discussion regarding the reports. There being none, the Board proceeded.

Financial Reports

The Board was provided copies of the available budget as of January 1, 2005 and a spreadsheet summary of financial accounts with line item budgeted amounts, expenses and available budget. There was some discussion of the format of the reports. Mr. Reed explained this was his attempt to provide the Board with some detail regarding the budget and expenditures. He apologized for the complexity of the spreadsheet and pledged to simplify it as much as possible. He advised the Board the records were available and he would be happy to provide any Board member with copies of the records or discuss the records with them at their convenience.

Company Application – Big Daddy Bail Bonds, Inc.

The application of Big Daddy Bail Bonds, Inc. was put before the Board for consideration. There was some discussion regarding the letter of credit posted as security for the license. Mr. Reed noted the letter of credit was issued on behalf of the corporation but that the assets securing the letter of credit were owned by Ms. Gayle Eastin, president of the company. He noted Ms. Eastin's personal financial statements did not list any offsetting liability representing the commitment of the letter of credit. Mr. Sturgeon stated he thought she had her paperwork in order and moved to grant the license. Mr. Morris expressed the opinion he would like to see more people like Ms. Eastin get in the business. A roll-call vote was called as follows: Morris – Yes; Sturgeon – Yes; Carruth – Yes; Reynolds – Yes; Oudin – Yes; Smith – Yes. With 6 in favor, the motion carried. The license was approved.

Public Comments:

Chairman Smith opened the floor for public comments. There being no public comments, the meeting was adjourned to hearings.

Upon conclusion of the scheduled hearing, Ms. Carruth moved to go into Executive session. The motion was withdrawn and the meeting was adjourned

Submitted for approval:

This 11th day of March, 2005 _____
Don Smith, Chairman